IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of: Mitchell, Bradley W.)
)
Serial No.:   09/752,201   )   Group Art Unit: 2167
)
Filed: December 30, 2000   )   Examiner: Ali, Mohammad
)
Title: **Method For Generation**   )
                 Of Electronic Reports   )

APPEAL BRIEF

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to the Notice of Appeal filed on June 1, 2005, Applicant (hereafter "Appellant") hereby submits this Appeal Brief in support of an Appeal from the Final Decision by the Examiner in the above-captioned patent application. Appellant respectfully requests consideration of this Appeal by the Board of Patent Appeals and Interferences for allowance of the claims in the above-captioned patent application.

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this Appeal. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefore are hereby authorized to be charged to Deposit Account No. 02-2666.

I.   Real Party in Interest

The real party in interest is the assignee of the full interest in the invention, Intel Corporation, 2200 Mission College Boulevard, Santa Clara, California 95054-1549.

II. Related Appeals and Interferences

To the best of Appellant's knowledge, there are no appeals or interferences related to the present appeal that will directly affect, be directly affected by, or have a bearing on the Board's decision in the instant appeal.

III. Status of Claims

Claims 1-31 are pending in the application and were finally rejected in an Office Action mailed March 1, 2005. Claims 1-31 are the subject of this appeal. A copy of Claims 1-31 as they stand on appeal are set forth in the Claims Appendix (Appendix A).

IV. Status of Amendments

In response to the first Official Action (dated January 28, 2004), an amendment was filed on April 8, 2004 to correct a typographical error. A second Official Action was mailed on July 8, 2004. In response to the second Official Action, no claim amendments were made. A Final Official Action was mailed on March 1, 2005. In response to the Final Official Action, a Notice of Appeal was filed on June 1, 2005. Thus, the attached Claims Appendix reflects the status of the claims listed in the amendment filed on April 8, 2004.

V. Summary of Claimed Subject Matter

In one embodiment, the invention relates to a method of compiling electronic data. As recited independent claim 1, a computing platform receives electronic data from at least one external source. (FIG. 1, block 10; Specification, page 4, line 8; page 6, lines 9-15; page 6, line 30 – page 7, line 7; page 7, lines 29-31.). At least a portion of the collected data is inserted into one or more data fields. (FIG. 1, blocks 20 and 30; Specification, page 6, lines 15-24; page 8, lines 24-28.). The one or more data fields

comprise an electronic scoreboard of interrelated data. (*Id*.). The electronic scoreboard of data is updated. (Specification, page 9, lines 5-10; FIG. 1, block 30.). And at least one measurement of updated scoreboard data is calculated. (Specification, page 9, lines 10-16; FIG. 1, portion 40.).

In another embodiment, the invention relates to a method of reporting electronic data. According to independent claim 7, at least a portion of one or more measurement values are retrieved. (Specification, page 10, lines 10-11.). At least a portion of one or more measurement values are compared to one or more threshold values. (Specification, page 10, lines 11-12.). A determination whether to designate at least a portion of the electronic data related to the one or more measurement values for reporting based at least in part on the comparison is made. (Specification, page 10, lines 12-13; page 10, lines 19-21.) And at least the portion of the electronic data designated for reporting is sent to a remote device. (Specification, page 11, line 31-page 12, line 2).

Independent claim 15 is directed to a method of generating electronic reports. According to independent claim 15, electronic data is collected from at least one external source. (FIG. 1, block 10; Specification, page 4, line 8; page 6, lines 9-15; page 6, line 30 – page 7, line 7; page 7, lines 29-31.) The collection of electronic data is inserted into a plurality of associated data fields. (FIG. 1, blocks 20 and 30; Specification, page 6, lines 15-24; page 8 lines 24-28). Scores are assigned to at least a portion of the data contained in the plurality of data fields. (FIG. 1, block 30; Specification page 9, lines 25-27) And electronic reports are issued based at least in part on the scores. (Specification, page 10, lines 6-8.)

Independent claim 17 recites a data reduction method. Interrelated electronic data regarding electronic transactions occurring via at least one selected web site are received. (FIG. 1, block 10; Specification, page 7, line 29-page 8, line 8.) The interrelated data is compiled into a plurality of data fields. (FIG. 1, blocks 20 and 30; Specification, page 8, lines 24-28.) The data fields are arranged to provide sample statistics of the interrelated data. (FIG. 1, portion 40; Specification, page 6, lines 24-27.) The interrelated electronic data fields are updated with additional data regarding more recent electronic

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transactions occurring via the at least one selected web site and the sample statistics are updated as well. (Specification, page 9, lines 5-10; page 9, lines 16-20.) After at least one update, the updated sample statistics are compared with at least one preset threshold value. (Specification, page 10, lines 19-23; page 11, lines 12-18; FIG. 2, ref. nos. 20, 30, and 40.) At least one report is generated based at least in part on the comparison. (FIG. 2, ref. nos. 60 and 70; Specification, page 11, lines 18-28.)

Independent claim 21 recites a method of displaying electronic data. According to independent claim 21, at least a portion of electronic data reports from at least one external source are received. (FIG. 1, block 10; Specification, page 4, line 8; page 6, lines 9-15; page 6, line 30 – page 7, line 7; page 7, lines 29-31.) The electronic data reports comprise electronic data collected and compiled, and reported based at least in part on a priority system. (Specification, page 5, lines 12-14 and 22-25; page 11, lines 10-31; FIG. 2.). At least a portion of the electronic data reports are displayed as a computer output. (Specification, page 11, line 31-page 12, line 6.).

Independent claims 24 and 28 are Beauregard and system claims, respectively, for generation of electronic reports, and are similar in that electronic data is collected from at least one external source. (FIG. 1, block 10; Specification, page 4, line 8; page 6, lines 9-15; page 6, line 30 – page 7, line 7; page 7, lines 29-31.). The collected electronic data is compiled. (FIG. 1; FIG. 2, block 10; Specification, page 10, lines 15-17.) And, the compiled electronic data is reported based at least in part on a priority basis. (Specification, page 5, lines 12-14 and 22-25; page 11, lines 10-31; FIG. 2.).

With regard to dependent claim 6, the one or more data fields contain one or more periodically updated lists of related electronic data values. (Specification, page 9, lines 5-10, and 16-20.)

With regard to dependent claim 11, comparing comprises comparing the one or more threshold values to the one or more measurement values (Specification, page 9, lines 10-16; page 10, lines 10-12; page 11, lines 19-21), and issuing at least one electronic report if the one or more measurement values

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exceeds the one or more threshold values. (Specification, page 10, lines 12-13 and 21-23; page 11, lines 17-28; FIG. 2, blocks 20, 30, and 40.)

With regard to dependent claim 23, the priority system comprises comparing one or more threshold values to one or more statistical or representative values of at least a portion of the collected electronic data. (Specification, page 5, lines 12-25; page 10, lines 21-23; page 11, lines 12-28; FIG. 2, blocks 20, 30, and 40.)

With regard to dependent claims 27 and 31, priority (or priority basis) is determined based at least in part on a comparison of the one or more measurement values to the one or more threshold values. (Specification, page 5, lines 12-25; page 10, lines 21-23; page 11, lines 12-28; FIG. 2, blocks 20, 30, and 40.) The one or more threshold values comprise one or more numerical values that relate at least in part to the one or more measurement values. (Specification, page 11, lines 14-15.)

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VI.   Grounds of Rejection to be Reviewed on Appeal

Claims 1-31 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No.

6,363,488 to Ginter *et al.* (hereinafter "Ginter") in view of U.S. Patent No. 4,093,223 to Wilke *et al.*

(hereinafter "Wilke").

VII.   Argument

A.   Claims 1-31 are patentable under 35 U.S.C. 103(a) over Ginter in view of Wilke.

In the Final Office Action dated March 1, 2005, the Examiner stated, with regard to independent

claim 1 that Ginter substantially teaches Appellant's invention, but that Ginter does not explicitly

indicate the claimed "scoreboard data". *Final Office Action*, dated March 1, 2005, p. 5. The Examiner

then states that:

> Wilke discloses the claimed scoreboard data (scoreboard under the control of the
> game controller automatically displays the present game score, see col. 1, lines 56-60,
> Wilke).
> It would have been obvious to one of ordinary skill in the data processing art, at
> the time of the present invention, to combine the teachings of the cited references [Ginter
> and Wilke] because the scoreboard data of Wilke's teachings would have allowed
> Ginter's system to generate all play action automatically, as suggested by Wilke at col. 1,
> lines 8-11 *et seq*. Further, scoreboard data as taught by Wilke improves to display all
> results instantly in the time frame (see col. 2, lines 32-34, Wilke)."

Id. at pp. 5-6.

The Examiner states a similar rejection to independent claim 15 as that stated above with reference to

independent claim 1. *Final Office Action*, dated March 1, 2005, pp. 9-10.

With regard to independent claim 7, the Examiner states that Ginter substantially teaches

Appellant's invention, but that Ginter does not explicitly indicate the claimed "reports". *Final Office*

Action, dated March 1, 2005, p. 7. The Examiner further states that:

> Wilke discloses the claimed reports (scoreboard under the control of the game
> controller automatically displays the present game score and number of possible results
> "reports" for each play, see col. 1, lines 44-58, Wilke).

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It would have been obvious to one of ordinary skill in the data processing art, at the time of the present invention, to combine the teachings of the cited references because reports of Wilke's teachings would have allowed Ginter's system to generate all play action automatically, as suggested by Wilke at col. 1, lines 8-11 *et seq*. Further, reports as taught by Wilke improves to display all results instantly in the time frame (see col. 2, lines 32-34, Wilke).

Id. at p. 8.

The Examiner states a similar rejection to independent claims 21, 24, and 28 as that stated above with reference to independent claim 7. *Final Office Action*, dated March 1, 2005, pp. 12-14 and 15-16.

With regard to independent claim 17, the Examiner states that Ginter substantially teaches Appellant's invention, but that Ginter does not explicitly indicate the claimed "transaction occurring". *Final Office Action*, dated March 1, 2005, pp. 10-11. The Examiner further states that:

Wilke discloses the claimed transaction occurring (scoreboard under the control of the game controller automatically displays the present game score and number of possible results "reports" for each play, see col. 1, lines 44-58, Wilke).

It would have been obvious to one of ordinary skill in the data processing art, at the time of the present invention, to combine the teachings of the cited references because transaction occurring of Wilke's teachings would have allowed Ginter's system to generate all play action automatically, as suggested by Wilke at col. 1, lines 8-11 *et seq*. Further, transaction occurring as taught by Wilke improves to display all results instantly in the time frame (col. 2, lines 32-34, Wilke).

Id.

With regard to dependent claims 6, 11, 23, 27, and 31, the Examiner states that Ginter teaches Appellant's invention. *Id.* at pp. 7-9 and 13-16.

Appellant respectfully asserts that the obviousness rejection is improper because the Examiner has not established a *prima facie* case of obviousness. Three criteria must be met to establish a *prima facie* case of obviousness. MPEP § 2143. There must be some suggestion or motivation, either in the references themselves or in the knowledge available to one of skill in the art, to combine the references. *Id.* There must be a reasonable expectation of success. *Id.* And, lastly, the prior art references must teach or suggest all the claim limitations. *Id.* "The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in

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[appellant's] disclosure." MPEP § 2143 (*citing In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)).

The Examiner has failed to establish a *prima facie* case of obviousness for at least the following reasons: (1) the references of Ginter and Wilke do not suggest the combination or motivate one skilled in the art to combine them; (2) Ginter and Wilke combined do not teach or suggest all of the claim limitations of independent claims 1, 7, 15, 17, 21, 24, and 28; and (3) Ginter and Wilke combined do not teach or suggest all of the limitations of dependent claims 6, 11, 23, 27, and 31.

1. The References of Ginter and Wilke Do Not Suggest the Combination or Motivate One Skilled in the Art to Combine Them

Appellant asserts that there is no suggestion or motivation in the references themselves or in the knowledge of one skilled in the art, to modify the reference or to combine reference teachings. As indicated above, the teachings or suggestions to combine must be found in Ginter and Wilke, not in Appellant's patent application. Ginter is directed to a method for secure transaction management and electronic rights protection. *Ginter*, Abstract; col. 1, lines 14-26. Wilke is directed to an apparatus for simulating an athletic contest on an electronic playing field. *Wilke*, col. 1, lines 34-36. There is nothing in the references themselves that would suggest the combination. Thus, Ginter and Wilke, considered as a whole, do not suggest the desirability or the obviousness of making the combination.

The Examiner's reasoning for the combination indicates that "scoreboard data of Wilke's teachings would have allowed Ginter's system to generate *all play action* automatically." *Final Office Action*, dated March 1, 2005, pp. 6, 8, and 10-16. The Examiner also states that "scoreboard data as taught by Wilke improves to display all results instantly in the time frame." *Id.* Appellant respectfully disagrees. Ginter does not appear to teach or suggest "generating all play action" or "scoreboard data". To the contrary, Ginter teaches secure transaction management and electronic rights protection. *Ginter,*

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Abstract; col. 1, lines 14-26. Wilke teaches simulating a fully automatic electronic game. *Wilke*, col. 2, lines 12-16. Thus, neither one of the references provide a motivation to combine.

Appellant submits that the Examiner has combined Ginter and Wilke based on Appellant's application disclosure. The Examiner's primary reference is Ginter. The Examiner admits that Ginter does not teach "scoreboard data" or "reports" in the Final Office Action dated March 1, 2005. The Examiner then states that Wilke teaches this feature. Appellant asserts that according to the sections of Ginter cited by the Examiner, nothing in Ginter suggests that "scoreboard data" is even needed since Ginter deals with secure transaction management and electronic rights protection. And although Wilke provides a scoreboard, Wilke does not provide reports.

Further, "[i]n order [for the Examiner] to rely on a reference as a basis for rejection of [appellant's] invention, the reference must either be in the field of [appellant's] endeavor or, if not, then be reasonably pertinent to the particular problem with which the invention [is] concerned." *In re Oetiker*, 977 F.2d 1443, 1446, 24 USPQ2d 1443, 1445 (Fed. Cir. 1992). See also, *In re Deminski*, 796 F.2d 436, 230 USPQ 313 (Fed. Cir. 1986); *In re Clay*, 966 F.2d 656, 659, 23 USPQ2d 1058, 1060-61 (Fed. Cir. 1992); *Wang Laboratories Inc. v. Toshiba Corp.*, 993 F.2d 858, 26 USPQ2d 1767 (Fed. Cir. 1993). The present invention solves the problem of collecting and reporting online data, for multiple uses that may include, for example, web site improvements, evaluating efficiencies, etc. The problems being solved with respect to Wilke include providing real-time display of the actual execution of the electronic football game and automatic means for keeping track of time left in the game or providing a penalty if either side delays the game. Thus, a person of ordinary skill, seeking to solve a problem of collecting and reporting online data, would not reasonably be expected or motivated to look to an electronic football game that provides real-time display of the actual execution of the game and automatic means for keeping track of time left in the game or providing a penalty if either side delays the game. Thus, the combination of the scoreboard data and report elements from non-analogous

sources (*i.e.*, the Wilke patent), in a manner that reconstructs Appellant's invention only with the benefit of hindsight, is insufficient to present a *prima facie* case of obviousness. As another measure or indication of the Wilke patent being non-analogous art, the PTO classification for the present invention is stated as 701/103 while the PTO classification for Wilke is stated as 273/94.

For the reasons stated above, Appellant strongly asserts that there is no motivation to modify Ginter with the teachings of Wilke. Therefore, the Examiner has failed to establish a *prima facie* case of obviousness. Thus, claims 1-31 are patentable over the cited combination of references (*i.e.,* Ginter and Wilke).

2.   Ginter and Wilke Combined Do Not Teach or Suggest All of the Claim Limitations of Independent Claims 1, 7, 15, 17, 21, 24, and 28

Claim 1

With respect to independent claim 1, neither Ginter nor Wilke, alone or in combination, teach at least the following claim limitations:

> (b)   inserting at least a portion of the collected data into one or more data fields, wherein said one or more data fields comprise an electronic scoreboard of interrelated data;
> (c)   updating said electronic scoreboard of data; and
> (d)   calculating at least one measurement of updated scoreboard data.

Ginter does not teach "inserting at least a portion of the collected data into one or more data fields, wherein said one or more data fields comprise an electronic scoreboard of interrelated data." Instead, the section of Ginter highlighted by the Examiner describes locations for inserting fingerprints being specified by VDE installation and or content container control information, wherein the information may specify that certain areas and/or precise locations within properties should be used for fingerprinting, such as one or more certain fields of information or information types. *Ginter*, col. 38, lines 23-33. Ginter does not teach that the one or more certain fields of information comprise an electronic scoreboard of interrelated data.

Ginter also does not teach or suggest "updating said electronic scoreboard of data." Instead, the section of Ginter highlighted by the Examiner describes a process of defining a user defined information increment and the predefined increment types (*Ginter*, col. 23, lines 23-45).

Ginter also does not teach or suggest "calculating at least one measurement of updated scoreboard data." Instead, the section of Ginter highlighted by the Examiner describes audit reconciliation and usage pattern evaluation processes that assesses whether certain violations of security of a Virtual Distribution Environment (VDE) arrangement have occurred (*Ginter*, col. 35, lines 25-30). In fact, Ginter does not teach or suggest an electronic scoreboard. Thus, contrary to the present invention, Ginter teaches security methods.

The Examiner, after stating that Ginter discloses Appellant's claim 1, which includes an electronic scoreboard, admits that Ginter does not teach the claimed "scoreboard." *See* Final Office Action, page 5, (Mar. 1, 2005). The Examiner further states that Wilke discloses this feature and that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Ginter and Wilke because "scoreboard data of Wilke's teachings would have allowed Ginter's system to generate all play action automatically, as suggested by Wilke at col. 1, lines 8-11 et seq. *Id.* at p. 6. Further, scoreboard data as taught by Wilke improves to display all results instantly in the time frame (see col. 2, lines 32-34, Wilke). *Id.*

Appellant agrees, as indicated above, that Ginter does not disclose an electronic scoreboard. Appellant respectfully disagrees that Wilke solves the deficiencies of Ginter.

Unlike the present invention, Wilke teaches a method "for simulating athletic contests on an electronic playing field." Wilke, col. 1, lines 34-36. Although Wilke teaches a scoreboard, the scoreboard of Wilke operates under the control of a game controller. Wilke does not teach Appellant's invention as recited in elements (b), (c), and (d) above with respect to claim 1.

For at least the reasons stated above, claim 1 is patentable over the cited references.

Claim 7

With respect to independent claim 7, neither Ginter nor Wilke, alone or in combination, teach at least the following claim limitations:

(c) determining whether to designate at least a portion of the electronic data related to the one or more measurement values for reporting, based at least in part on the comparison.

Ginter does not teach or suggest "determining whether to designate at least a portion of the electronic data related to the one or more measurement values for reporting, based at least in part on the comparison." Instead, the section of Ginter highlighted by the Examiner teaches that information

reported to a financial clearinghouse may cause the financial clearinghouse to generate a bill and send it to the content user (*Ginter*, col. 55, line 60 – col. 56, line 2). Thus, Ginter does not appear to determine whether to designate at least a portion of the electronic data related to the one or more measurement values for reporting, based at least in part on a comparison. Instead, the financial clearinghouse may generate a bill based on the reporting, not on a comparison.

The Examiner, after stating that Ginter discloses Appellant's claim 7, which includes reports, admits that Ginter does not teach the claimed "reports." *See* Final Office Action, page 7, (Mar. 1, 2005). The Examiner further states that Wilke discloses this feature and that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Ginter and Wilke because "reports of Wilke's teachings would have allowed Ginter's system to generate all play action automatically, as suggested by Wilke at col. 1, lines 8-11 et seq. *Id.* at p. 8. Further, scoreboard data as taught by Wilke improves to display all results instantly in the time frame (see col. 2, lines 32-34, Wilke). *Id.*

Appellant agrees, as indicated above, that Ginter does not disclose the reports. Appellant respectfully disagrees that Wilke solves the deficiencies of Ginter.

Unlike the present invention, Wilke teaches a method "for simulating athletic contests on an electronic playing field." Wilke, col. 1, lines 34-36. Although Wilke teaches a scoreboard, the scoreboard of Wilke operates under the control of a game controller to provide the score and other information pertaining to the electronic game, not reports. Thus, Wilke does not teach Appellant's invention as recited in element (c) above with respect to claim 7.

For at least the reasons stated above, claim 7 is patentable over the cited references.

Claim 15

With respect to independent claim 15, neither Ginter nor Wilke, alone or in combination, teach at least the following claim limitations:

(c) assigning scores to at least a portion of the data contained in the plurality of data fields; and

(d) issuing electronic reports based at least in part on said scores.

Ginter does not teach or suggest "assigning scores to at least a portion of the data contained in the plurality of data fields." Instead, the section of Ginter highlighted by the Examiner describes locations for inserting fingerprints being specified by VDE installation and or content container control information, wherein the information may specify that certain areas and/or precise locations within properties should be used for fingerprinting, such as one or more certain fields of information or information types. *Ginter*, col. 38, lines 23-33. Ginter also teaches that fingerprinting should be encrypted to prevent tampering. *Ginter*, col. 38, lines 33-47. Thus, unlike the present invention, which teaches assigning scores to at least a portion of the data contained in the plurality of data fields, Ginter teaches encrypting fingerprints to make it difficult for tampered fingerprints to be interpreted as valid. *Id.*

Ginter does not teach or suggest "issuing electronic reports based at least in part on said scores." Instead, the section of Ginter highlighted by the Examiner for element (d) above teaches a usage analyst for analyzing reported usage information, a report creator for creating reports based on usage, and a report receiver for receiving reports from content users (*Ginter*, col. 55, lines 10-25). Thus, Ginter teaches a report creator for creating reports based on usage, not based at least in part on scores.

The Examiner, after stating that Ginter discloses Appellant's claim 15, which includes scores and reports, admits that Ginter does not teach the claimed "scores" and "reports." *See* Final Office Action, page 10, (Mar. 1, 2005). The Examiner further states that Wilke discloses this feature and that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings

of Ginter and Wilke because "scores and reports of Wilke's teachings would have allowed Ginter's system to generate all play action automatically, as suggested by Wilke at col. 1, lines 8-11 et seq. *Id.* Further, scoreboard data as taught by Wilke improves to display all results instantly in the time frame (see col. 2, lines 32-34, Wilke). *Id.*

Appellant agrees, as indicated above, that Ginter does not disclose the scores and reports. Appellant respectfully disagrees that Wilke solves the deficiencies of Ginter.

Unlike the present invention, Wilke teaches a method "for simulating athletic contests on an electronic playing field." Wilke, col. 1, lines 34-36. Although Wilke teaches a scoreboard, the scoreboard of Wilke operates under the control of a game controller to provide the score and other information pertaining to the electronic game, not assign scores to the data in the data fields and provide reports. Thus, Wilke does not teach Appellant's invention as recited in elements (c) and (d) above with respect to claim 15.

For at least the reasons stated above, claim 15 is patentable over the cited references.

Claim 17

With respect to claim 17, neither Ginter nor Wilke, alone or in combination, teach or suggest at least the following claim elements:

> compiling said interrelated data into a plurality of data fields, said data fields arranged to provide sample statistics of said interrelated data;
> updating said interrelated electronic data fields with additional data regarding more recent electronic transactions occurring via said at least one selected web site, wherein said updating updates said sample statistics;
> after at least one update, comparing said updated sample statistics with at least one preset threshold value; and
> generating at least one report based at least in part on the comparison.

Ginter does not teach or suggest "compiling said interrelated data into a plurality of data fields, said data fields arranged to provide sample statistics of said interrelated data." Instead, the section of Ginter highlighted by the Examiner describes locations for inserting fingerprints being specified by

VDE installation and or content container control information, wherein the information may specify that certain areas and/or precise locations within properties should be used for fingerprinting, such as one or more certain fields of information or information types. *Ginter*, col. 38, lines 23-33. Ginter also teaches that fingerprinting should be encrypted to prevent tampering. *Ginter*, col. 38, lines 33-47. Thus, Ginter provides encryption, not sample statistics of interrelated data.

Ginter does not teach or suggest "updating said interrelated electronic data fields with additional data regarding more recent electronic transactions occurring via said at least one selected web site, wherein said updating updates said sample statistics." Instead, the sections of Ginter cited by the Examiner describes locations for inserting fingerprints being specified by VDE installation and or content container control information, wherein the information may specify that certain areas and/or precise locations within properties should be used for fingerprinting, such as one or more certain fields of information or information types. *Ginter*, col. 38, lines 23-33. Ginter also teaches that fingerprinting should be encrypted to prevent tampering. *Ginter*, col. 38, lines 33-47. Thus, Ginter teaches encrypting the data, not updating the interrelated electronic data fields with additional data regarding more recent electronic transactions occurring via said at least one selected web site ..., as recited in claim 17.

Ginter does not teach or suggest "after at least one update, comparing said updated sample statistics with at least one preset threshold value." Instead, the section of Ginter highlighted by the Examiner describes audit reconciliation and usage pattern evaluation processes that assesses whether certain violations of security of a Virtual Distribution Environment (VDE) arrangement have occurred (*Ginter*, col. 35, lines 25-30). Thus, instead of comparing the updated sample statistics with at least one preset threshold value, Ginter provides audit reconciliation and usage pattern evaluation processes that assess whether security violations have occurred.

Ginter does not teach or suggest "generating at least one report based at least in part on the comparison." Instead, the section of Ginter highlighted by the Examiner for element (d) above teaches a

usage analyst for analyzing reported usage information, a report creator for creating reports based on usage, and a report receiver for receiving reports from content users (*Ginter*, col. 55, lines 10-25). Thus, Ginter teaches a report creator for creating reports based on usage, not based at least in part on a comparison.

The Examiner, after stating that Ginter discloses Appellant's claim 17, which includes "transaction occurring", admits that Ginter does not teach the claimed "transaction occurring." *See* Final Office Action, page 11, (Mar. 1, 2005). The Examiner further states that Wilke discloses this feature and that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Ginter and Wilke because "transaction occurring of Wilke's teachings would have allowed Ginter's system to generate all play action automatically, as suggested by Wilke at col. 1, lines 8-11 et seq. *Id.* Further, scoreboard data as taught by Wilke improves to display all results instantly in the time frame (see col. 2, lines 32-34, Wilke). *Id.*

Appellant agrees, as indicated above, that Ginter does not disclose the "transaction occurring". Appellant respectfully disagrees that Wilke solves the deficiencies of Ginter.

Unlike the present invention, Wilke teaches a method "for simulating athletic contests on an electronic playing field." Wilke, col. 1, lines 34-36. Although Wilke teaches a scoreboard, the scoreboard of Wilke operates under the control of a game controller to provide the score and other information pertaining to the electronic game, not update the interrelated electronic data fields with additional data regarding more recent electronic transactions occurring via the at least one selected web site as recited in claim 17. Thus, Wilke does not teach Appellant's invention as recited in claim 17.

For at least the reasons stated above, claim 17 is patentable over the cited references.

Claim 21

With respect to claim 21, neither Ginter nor Wilke, alone or in combination, teach or suggest at least the following claim element of "receiving at least a portion of electronic data reports from at least one external source, wherein the electronic data reports comprise electronic data collected and compiled, and reported based at least in part on a priority system." Instead, the section of Ginter highlighted by the Examiner teaches that information reported to a financial clearinghouse may cause the financial clearinghouse to generate a bill and send it to the content user (*Ginter*, col. 55, line 60 – col. 56, line 2). Thus, Ginter does not appear to receive at least a portion of the electronic data reports from at least one external source, wherein the electronic data reports comprise electronic data collected and compiled, and reported based at least in part on a priority system. Instead, the financial clearinghouse may generate a bill based on the reporting, not on a priority system.

The Examiner, after stating that Ginter discloses Appellant's claim 21, which includes reports, admits that Ginter does not teach the claimed "reports." *See* Final Office Action, page 12, (Mar. 1, 2005). The Examiner further states that Wilke discloses this feature and that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Ginter and Wilke because "scoreboard data of Wilke's teachings would have allowed Ginter's system to generate all play action automatically, as suggested by Wilke at col. 1, lines 8-11 et seq. *Id.* at pp. 12-13. Further, scoreboard data as taught by Wilke improves to display all results instantly in the time frame (see col. 2, lines 32-34, Wilke). *Id.*

Appellant agrees, as indicated above, that Ginter does not disclose the reports. Appellant respectfully disagrees that Wilke solves the deficiencies of Ginter.

Unlike the present invention, Wilke teaches a method "for simulating athletic contests on an electronic playing field." Wilke, col. 1, lines 34-36. Although Wilke teaches a scoreboard, the scoreboard of Wilke operates under the control of a game controller to provide the score and other

information pertaining to the electronic game, not reports. Thus, Wilke does not teach Appellant's invention as recited in claim 21.

For at least the reasons stated above, claim 21 is patentable over the cited references.

Claims 24 and 28

With respect to claims 24 and 28, neither Ginter nor Wilke, alone or in combination, teach or suggest at least the following claim element of "reporting said compiled electronic data based at least in part on a priority basis." Instead, the section of Ginter highlighted by the Examiner teaches that information reported to a financial clearinghouse may cause the financial clearinghouse to generate a bill and send it to the content user (*Ginter*, col. 55, line 60 – col. 56, line 2). Thus, Ginter does not appear to receive at least a portion of the electronic data reports from at least one external source, wherein the electronic data reports comprise electronic data collected and compiled, and reported based at least in part on a priority system. Instead, the financial clearinghouse may generate a bill based on the reporting, not on a priority system.

The Examiner, after stating that Ginter discloses Appellants' claims 24 and 28, which includes reports, admits that Ginter does not teach the claimed "reports." *See* Final Office Action, pages 13 and 15, (Mar. 1, 2005). The Examiner further states that Wilke discloses this feature and that it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Ginter and Wilke because "scoreboard data of Wilke's teachings would have allowed Ginter's system to generate all play action automatically, as suggested by Wilke at col. 1, lines 8-11 et seq. *Id.* at pp. 14-16. Further, scoreboard data as taught by Wilke improves to display all results instantly in the time frame (see col. 2, lines 32-34, Wilke). *Id.*

Appellant agrees, as indicated above, that Ginter does not disclose the reports. Appellant respectfully disagrees that Wilke solves the deficiencies of Ginter.

Unlike the present invention, Wilke teaches a method "for simulating athletic contests on an electronic playing field." Wilke, col. 1, lines 34-36. Although Wilke teaches a scoreboard, the scoreboard of Wilke operates under the control of a game controller to provide the score and other information pertaining to the electronic game, not reports. Thus, Wilke does not teach Appellant's invention as recited in claims 24 and 28.

For at least the reasons stated above, claims 24 and 28 are patentable over the cited references.

3.   Ginter and Wilke Combined Do Not Teach or Suggest All of the Limitations of Dependent Claims 6, 11, 23, 27, and 31

Claim 6

With respect to dependent claim 6, neither Ginter nor Wilke, alone or in combination, teach at least the following claim element of "wherein said one or more data fields contain one or more periodically updated lists of related electronic data values."

With regards to claim 6, the Examiner, on page 7 of the Final Office Action dated March 1, 2005, states that Ginter teaches this element. Appellant respectfully disagrees. Unlike the present invention, the section of Ginter cited by the Examiner describes locations for inserting fingerprints being specified by VDE installation and or content container control information, wherein the information may specify that certain areas and/or precise locations within properties should be used for fingerprinting, such as one or more certain fields of information or information types. *Ginter*, col. 38, lines 23-33. Ginter also teaches that fingerprinting should be encrypted to prevent tampering. *Ginter*, col. 38, lines 33-47. Thus, Ginter teaches encrypting fingerprint data, not data fields containing one or more periodically updated lists of related electronic data values. Thus, for the reasons stated above, dependent claim 6 is also patentable over the cited references of Ginter and Wilke.

Claim 11

With respect to dependent claim 11, neither Ginter nor Wilke, alone or in combination, teach at least the following claim element of "wherein comparing comprises: comparing the one or more threshold values to the one or more measurement values, and issuing at least one electronic report if the one or more measurement values exceeds the one or more threshold values."

With regards to claim 11, the Examiner, on pages 8-9 of the Final Office Action dated March 1, 2005, states that Ginter teaches this element. Appellant respectfully disagrees. Unlike the present invention, the section of Ginter highlighted by the Examiner describes audit reconciliation and usage

pattern evaluation processes that assesses whether certain violations of security of a Virtual Distribution Environment (VDE) arrangement have occurred (*Ginter*, col. 35, lines 25-34). Thus, instead of comparing the threshold values to the measured values and issuing a report, Ginter provides audit reconciliation and usage pattern evaluation processes that assess whether security violations have occurred. Thus, for the reasons stated above, dependent claim 11 is also patentable over the cited references of Ginter and Wilke.

Claim 23

With respect to dependent claim 23, neither Ginter nor Wilke, alone or in combination, teach at least the following claim element of "wherein said priority system comprises comparing one or more threshold values to one or more statistical or representative values of at least a portion of the collected electronic data."

With regards to claim 23, the Examiner, on page 13 of the Final Office Action dated March 1, 2005, states that Ginter teaches this element. Appellant respectfully disagrees. Unlike the present invention, the section of Ginter highlighted by the Examiner teaches that a user may enforce her own control information on her usage of creator A's VDE content container. *Ginter*, col. 305, lines 40-43. The control information may include thresholds, such that if the thresholds are exceeded, the user must give explicit approval before continuing. *Id.* at lines 43-51. Thus, Ginter teaches comparing threshold values to usage of creator A's VDE content container, not comparing threshold values to one or more statistical or representative values of at least a portion of the collected electronic data. Thus, for the reasons stated above, dependent claim 23 is also patentable over the cited references of Ginter and Wilke.

Claims 27 and 31

With respect to dependent claim 27, neither Ginter nor Wilke, alone or in combination, teach at least the following claim limitations of "wherein said medium further has stored instructions that, when executed, result in determining priority based at least in part on the comparison of said one or more measurement values to one or more threshold values, wherein said one or more threshold values comprises one or more numerical values that relate at least in part to said one or more measurement values."

With regards to claim 27, the Examiner, on page 15 of the Final Office Action dated March 1, 2005, states that Ginter teaches this element. Appellant respectfully disagrees. Unlike the present invention, the section of Ginter highlighted by the Examiner teaches that a user may enforce her own control information on her usage of creator A's VDE content container. *Ginter*, col. 305, lines 40-43. The control information may include thresholds, such that if the thresholds are exceeded, the user must give explicit approval before continuing. *Id.* at lines 43-51. Thus, Ginter teaches comparing threshold values to usage of creator A's VDE content container, not determining priority based at least in part on the comparison of said one or more measurement values to one or more threshold values, wherein said one or more threshold values comprises one or more numerical values that relate at least in part to said one or more measurement values. Thus, for the reasons stated above, dependent claim 27 is also patentable over the cited references of Ginter and Wilke.

Dependent claim 31 recites similar elements to dependent claim 27. Thus, for at least the reasons stated above with respect to dependent claim 27, dependent claim 31 is also patentable over the cited references of Ginter and Wilke.

Conclusion

In view of the foregoing, favorable reconsideration and reversal of the rejections is respectfully requested. Early notification of the same is earnestly solicited. If there are any questions regarding the present application, the Examiner and/or the Board is invited to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

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/Crystal D. Sayles, Reg. No. 44,318/

Dated: <u>November 2, 2005</u>

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Appendix A: Claims Appendix

1. (original) A method of compiling electronic data comprising:

(a)   receiving electronic data on a computing platform from at least one external source;

(b)   inserting at least a portion of the collected data into one or more data fields, wherein said one or more data fields comprise an electronic scoreboard of interrelated data;

(c)   updating said electronic scoreboard of data; and

(d)   calculating at least one measurement of updated scoreboard data.

2. (original) The method of claim 1, wherein said at least one external source comprises a remote computing platform coupled by a network to the computing platform that receives the electronic data.

3. (original) The method of claim 2, wherein said at least one external source further comprises data collection software executing on said remote computing platform.

4. (original) The method of claim 1, wherein updating said electronic scoreboard of data comprises removing at least a portion of collected electronic data after a particular amount of time has elapsed.

5. (original) The method of claim 1, wherein updating said electronic scoreboard of data comprises removing at least a portion of collected electronic data after a particular amount of data is collected.

6. (original) The method of claim 1, wherein said one or more data fields contain one or more periodically updated lists of related electronic data values.

7. (original) A method of reporting electronic data, said method comprising:

    (a)   retrieving at least a portion of one or more measurement values;

    (b)   comparing a least a portion of one or more measurement values to one or more threshold values;

    (c)   determining whether to designate at least a portion of the electronic data related to the one or more measurement values for reporting, based at least in part on the comparison; and

    (d)   sending at least the portion of the electronic data designated for reporting to a remote device.

8. (original) The method of claim 7, wherein the one or more measurement values comprise statistical values obtained from a sample of the electronic data.

9. (original) The method of claim 8, wherein said one or more threshold values comprise one or more numerical values that relate at least in part to said statistical values.

10. (original) The method of claim 7, wherein the electronic data comprises text data.

11. (original) The method of claim 7, wherein comparing comprises: comparing the one or more

threshold values to the one or more measurement values, and issuing at least one electronic

report if the one or more measurement values exceeds the one or more threshold values.

12. (original) The method of claim 7, wherein the one or more threshold values are configurable.

13. (original) The method of claim 12, wherein the configuration is determined by a user.

14. (original) The method of claim 7, wherein the remote device comprises a computing platform

capable of receiving electronic data.

15. (original) A method of generating electronic reports, said method comprising:

(a) collecting electronic data from at least one external source;

(b)inserting the collection of electronic data into a plurality of associated data fields;

(c) assigning scores to at least a portion of the data contained in the plurality of data fields;

(d) issuing electronic reports based at least in part on said scores.

16. (previously presented) The method of claim 15, wherein steps (b), (c) and (d) are repeated

based at least in part on additional collected electronic data.

17. (original) A method of data reduction comprising:

receiving interrelated electronic data regarding electronic transactions occurring via at

least one selected web site;

compiling said interrelated data into a plurality of data fields, said data fields arranged to provide sample statistics of said interrelated data;

updating said interrelated electronic data fields with additional data regarding more recent electronic transactions occurring via said at least one selected web site, wherein said updating updates said sample statistics;

after at least one update, comparing said updated sample statistics with at least one preset threshold value; and

generating at least one report based at least in part on the comparison.

18. (original) The method of claim 17, wherein said sample statistics comprise at least the mean and standard deviation.

19. (original) The method of claim 17, wherein said threshold value is configurable.

20. (original) The method of claim 17, and further comprising:

updating said one or more data fields by omitting at least a portion of the collected electronic data other than said additional data.

21. (original) A method of displaying electronic data, said method comprising:

(a)   receiving at least a portion of electronic data reports from at least one external source, wherein the electronic data reports comprise electronic data collected and compiled, and reported based at least in part on a priority system; and

(b)   displaying at least a portion of the electronic data reports as a computer output.

22. (original) The method of claim 21, wherein said electronic data reports comprise data at least

partially relating to online or internet activity.

23. (original) The method of claim 21, wherein said priority system comprises comparing one or

more threshold values to one or more statistical or representative values of at least a portion of

the collected electronic data.

24. (original) An article comprising:

        a storage medium having stored thereon instructions, that when executed by a computing

platform, result in execution of an electronic report generator, by:

                collecting electronic data from at least one external source;

                compiling said collected electronic data; and

                reporting said compiled electronic data based at least in part on a priority basis.

25. (original) The article of claim 24, wherein said medium further has stored thereon

instructions that, when executed, result in said electronic data being compiled by inserting at

least a portion of said collected electronic data into one or more data fields.

26. (original) The article of claim 24, wherein said medium further has stored thereon

instructions that, when executed, result in determining one or more measurement values of said

electronic data, wherein said measurement values comprise one or more representative values of

at least a portion of said collected electronic data.

27. (original) The article of claim 24, wherein said medium further has stored instructions that,

when executed, result in determining priority based at least in part on the comparison of said one

or more measurement values to one or more threshold values, wherein said one or more

threshold values comprises one or more numerical values that relate at least in part to said one or

more measurement values.

28. (original) A system for generation of electronic reports comprising:

    a computing platform;

    said computing platform being adapted to, in operation, perform the generation of
    electronic reports by:

        collecting electronic data from at least one external source;

        compiling said collected electronic data; and

        reporting said compiled electronic data based at least in part on a priority basis.

29. (original) The system of claim 28, wherein compiling said collected electronic data further

comprises inserting at least a portion of said collected electronic data into one or more data

fields.

30. (original) The system of claim 28, wherein compiling said collected electronic data further

comprises determining one or more measurement values of said collected electronic data,

wherein said one or more measurement values comprise one or more representative values of at least a portion of said collected electronic data.

31. (original) The system of claim 28, wherein said priority basis is determined based at least in part on a comparison of said one or more measurement values to said one or more threshold values, wherein said one or more threshold values comprise one or more numerical values that relate at least in part to said one or more measurement values.

Appendix B: Evidence Appendix

No evidence has been submitted in the present appeal.

Appendix C: Related Proceedings Appendix

There are no related proceedings.